

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte STEVEN R. DONOVAN and JOHN K. GALLANT

Appeal No. 2003-0070
Application No. 09/436,796

MAILED

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REMAND TO THE EXAMINER

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
WASHINGTON, D.C.

A Reply Brief (Paper No. 16) was entered October 11, 2002, in response to an Examiner's Answer (Paper No. 14) entered June 10, 2002.

In accordance with the revision effective December 1, 1997, Title 37, **Code of Federal Regulations**, § 1.193 states:

(b)(1) ... The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

In view of this revision, the examiner must acknowledge receipt and entry of the Reply Brief. Otherwise, if the examiner chooses to respond to the arguments presented in the Reply Brief, the examiner needs to reopen prosecution in order to respond to the Reply Brief (Paper No. 16).

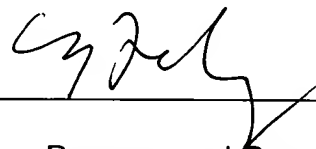
Accordingly, it is

ORDERED that the application be remanded to the examiner for appropriate consideration of the Reply Brief, and for such further action as may be appropriate.

This application, by virtue of its "special" status, requires an immediate action, see Manual of Patent Examining Procedure § 708.01 (Eighth Edition, Aug. 2001), item (D). It is important that the Board of Patent Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____



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